

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CHARLES MOORE,

Plaintiff,

Case No. 1:13-CV-881

v.

Hon. Gordon J. Quist

WILLIE O. SMITH, et al.,

Defendants.

ORDER ADOPTING REPORT AND RECOMMENDATION

On November 2, 2015, Magistrate Judge Ray Kent issued a Report and Recommendation (R & R) in which he recommended that the Court deny Plaintiff's motion for default judgment against defendant Unknown Clark. On November 20, 2015, Plaintiff filed objections to the R & R. Having conducted a *de novo* review of the R & R, Plaintiff's objections, and the pertinent portions of the record, the Court concludes that the R & R should be adopted.

The magistrate judge concluded that Plaintiff's motion for default judgment should be denied because Plaintiff has not identified the defendant, there is no basis in the record to award the amount of damages requested, and the proceedings against the other defendants may reveal a dispute of material fact. Plaintiff objects to the magistrate judge's recommendation, arguing that it would be impractical for him to refile a motion for default judgment after the completion of discovery. As the magistrate judge explained, however, there exists a strong possibility that there may be a dispute of material fact as discovery proceeds with the other defendants. Moreover, it is unclear at this time whether Plaintiff is entitled to the \$450,000 he seeks from each defendant.

Therefore,

IT IS HEREBY ORDERED that the Report and Recommendation of the Magistrate Judge filed November 2, 2015 (dkt. #64), is **ADOPTED**.

IT IS FURTHER ORDERED that Plaintiff's Motion for Default Judgment against Defendant Clark (dkt. #49) is **DENIED**.

Dated: November 25, 2015

/s/ Gordon J. Quist
GORDON J. QUIST
UNITED STATES DISTRICT JUDGE